

**SEP 14 2006**

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RUSSELL DAVID BARTLOW,

Defendant - Appellant.

No. 05-10821

D.C. No. CR-98-00410-MMC

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Northern District of California  
Maxine M. Chesney, District Judge, Presiding

Submitted September 11, 2006<sup>\*\*</sup>

Before: PREGERSON, T.G. NELSON and GRABER, Circuit Judges.

Russell David Bartlow appeals pro se from the district court's order denying his motion under 18 U.S.C. § 3582(c)(2) to reduce his sentence. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Bartlow contends that the district court should have reduced his sentence because Amendment 599 to the United States Sentencing Guidelines lowers the sentencing range for the crimes of which he was convicted. The district court properly denied Bartlow's motion because Amendment 599 did not change any aspect of the analysis the sentencing judge engaged in when originally sentencing Bartlow. *See United States v. Townsend*, 98 F.3d 510, 513 (9th Cir. 1998) (per curiam). Furthermore, there is no relief available to Bartlow under *United States v. Booker*, 543 U.S. 220 (2005), because his conviction was already final prior to the issuance of the *Booker* decision and because motions under 18 U.S.C. § 3582(c)(2) may be brought only based on a change in the applicable sentencing guidelines, not based on other changes in the law. *See* 18 U.S.C. § 3582(c)(2); *United States v. Cruz*, 423 F.3d 1119, 1120-21 (9th Cir. 2005).

**AFFIRMED.**